Judge Chides Government for Trying to Gag Ex-Spy

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A federal judge said yesterday that former CIA spy master Clair E. George was entitled to delve into his secret career at the agency during his forthcoming criminal trial and scolded Iran-contra prosecutors for trying to muzzle him.

"Criminal defendants are always permitted to give some background about themselves," U.S. District Judge Royce Lamberth said in a 39-page ruling. "If the government insists on sanitizing all of the details of the defendant's career," the judge warned, "then an admission that accords defendant something equivalent to war-hero status would be appropriate."

Once the high-ranking deputy director for operations at CIA, with a worldwide force of some 2,500 people at his command, George faces trial this month on nine counts of lying and obstructing congressional and grand jury inquiries into the Iran-contra affair.

In yesterday's pretrial order, Lamberth dealt with George's attempts to use extensive amounts of classified information in his defense and with the prosecution's attempts to " 'freeze-frame' on the moments during which [George] allegedly lied and permit no other evidence to go to the jury."

The judge noted that he has in the past criticized George for trying to force production of vast numbers of secret documents to demonstrate the "context" of his position. But he added that he "must now similarly chastise the government for attempting to deny defendant from showing any context at all."

George, the ruling made clear, wants to show what a busy man he was and, as part of this "preoccupation defense," explain the structure and day-to-day functioning of the CIA, the internal workings of his worldwide directorate, the dozens of sensitive covert-action programs that were carried out during his tenure and the wide variety of "flaps" or controversies with which he had to deal.

The Iran-contra affair involved the Reagan administration's covert resupply network for the Nicaraguan contras, secret U.S. arms-for-hostages deals with Iran and the diversion of profits from those deals to the contra cause. George's lawyers plan to argue that he had too many other problems to be held to account for this one.

Lamberth ruled that this was a legitimate approach and that the prosecution's view of the case was much too narrow. The judge said, "The government's vision of the case would suffocate virtually any defense that Mr. George sought to make."

But having said that, Lamberth also ruled against George time and again in his efforts to make public the secret "details" of his work. The judge said substitute phrases and generalities would suffice for George to make his points.

George "must be permitted to provide the jury with some information about his life and career," Lamberth said. "Unquestionably, the government may substitute for specific places and operations, but the substance of his career and his success must come through."

Final pretrial hearings are scheduled to start Monday. Jury selection will begin when these are concluded. There will be no testimony until July 20 at the earliest.